

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JEREMY COLLARD,

Plaintiff,

BLACK DIAMOND EQUIPMENT RENTALS, LLC,

COMPLAINT

Civil Case No:
1:20-cv-1522 (DNH/CFH)

Defendants.

NOTICE

PURSUANT TO RULE 38(B) OF THE FEDERAL RULES OF CIVIL PROCEDURE

PLAINTIFF DEMANDS A TRIAL BY JURY

Plaintiff, by his attorneys, **HORIGAN, HORIGAN & LOMBARDO, P.C.**, as and for a Complaint against the Defendants alleges as follows:

JURISDICTION

1. The matter in controversy exceeds, exclusive of interest and costs, the sum specified by 28 U.S.C. § 1332, and there exists diversity of citizenship between the parties.
2. That the Defendant, BLACK DIAMOND EQUIPMENT RENTALS, LLC, committed a tortious act or acts within the State of Pennsylvania which tortious acts resulted in serious personal injuries to Plaintiff, JEREMY COLLARD.
3. That Defendant, BLACK DIAMOND EQUIPMENT RENTALS, LLC. expects or should reasonably expect the act or acts to have consequences in the State of New York and/or derives substantial revenue from interstate commerce.

PARTIES

4. At all times hereinafter mentioned, on July 29, 2020, Plaintiff JEREMY COLLARD, was and is a resident of and domiciled in the State of New York.
5. Upon information and belief, at all times herein mentioned, Defendant BLACK DIAMOND EQUIPMENT RENTALS, LLC, was and still is a Foreign Business Corporation and business entity duly organized and existing under the laws of the State of Pennsylvania with a place of business, corporate headquarters and executive office located at 732 McClellandtown Road, Uniontown, Pennsylvania 15401.

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6. Upon information and belief and at all times herein mentioned, Defendant BLACK DIAMOND EQUIPMENT RENTALS, LLC is a company which provides a variety of equipment for rent and in addition provides numerous and various services for said equipment and other products and equipment within the State of Pennsylvania at its Facility located in Uniontown, Pennsylvania for sale and distribution to various locations in various states including the State of New York.
7. Upon information and belief and at all times herein mentioned, Defendant BLACK DIAMOND EQUIPMENT RENTALS, LLC, transacts business in the State of New York and/or contracts for goods and/or services within the State of New York and has entered into contracts for transportation services of its various equipment and products from business entities within the State of New York and is engaged or otherwise engaged in interstate commerce.
8. Defendant has engaged in other persistent course of conduct in interstate commerce between New York and Pennsylvania and other states and has derived substantial revenue from sales and/or distribution of its equipment and/or services within and between various states including the State of New York and the State of Pennsylvania.

FACTS

9. That at all times herein mentioned, Defendant BLACK DIAMOND EQUIPMENT RENTALS, LLC, entered into an agreement and/or contract with Richard Gray Trucking, LLC to provide certain work, labor, services, including transportation services with respect to delivery of certain equipment namely Trench Boxes to the Defendant BLACK DIAMOND EQUIPMENT RENTALS, LLC facility and premises at 732 McClellandtown Road, Uniontown, Pennsylvania 15401.
10. At all times herein mentioned, on July 29, 2020, the plaintiff, JEREMY COLLARD, was an employee of Richard Gray Trucking, LLC and engaged in the course of his employment as a tractor trailer driver.

11. That at all times herein mentioned, on July 29, 2020, the plaintiff was employed by Richard Gray Trucking, LLC and was operating a tractor trailer type vehicle in the course of the company's business and in the course of his employment and delivering the aforesaid equipment at the aforementioned BLACK DIAMOND EQUIPMENT RENTALS, LLC Uniontown, Pennsylvania facility.
12. That on July 29, 2020 while the plaintiff was preparing to unload the Trench Boxes he was delivering to the defendant he was in the process of unsecuring chains used to secure the load in transit when the defendant's employee operating a forklift he was using to unload the boxes began lifting the Trench Box while the plaintiff was still standing on that box unsecuring the chains.
13. As a result of the negligent, careless premature movement in lifting the Trench Box upon which the plaintiff was still working the plaintiff JEREMY COLLARD was forced to jump from the box to the ground in order to avoid being thrown from the Trench Box.
14. That as a result of the plaintiff's jump to the ground he seriously injured his right ankle as he was caused to fall upon contact with the ground.
15. That in violation of its duties and as a consequence of its unsafe and/or negligent acts, the defendant, BLACK DIAMOND EQUIPMENT RENTALS, LLC, by and through its officers, agents, servants and employees negligently caused, permitted and/or acquiesced in the unloading operation at the aforesaid Uniontown, Pennsylvania facility and as a result of said negligence and carelessness of the fork lift operator employed by BLACK DIAMOND EQUIPMENT RENTALS, LLC the Richard Gray Trucking, LLC trailer was improperly and dangerously unloaded such that the plaintiff, when during the course of his employment and while he was lawfully proceeding on the trailer in the process of unsecuring one of the Trench Boxes being delivered was caused to fall to the ground all due to the improper and careless unloading of the tractor trailer vehicle at the Uniontown Pennsylvania facility.
16. Said accident and the resulting injuries and damages to plaintiff were caused solely by the negligence and carelessness of the Defendant herein, with no negligence on the part of the Plaintiff contributing thereto.

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17. That by reason of the negligence of the Defendant as herein above set forth and as a direct and proximate cause thereof, the Plaintiff, JEREMY COLLARD, sustained certain serious, continuing and permanent personal injuries and substantial damages; was injured, bruised and wounded so that he became sick, sore, lame and disabled, suffered for some time great physical pain and mental anguish, sustained personal injuries, both internal and external and has incurred and will continue to incur expenses for medical care and assistance.
18. By reason of the foregoing, Plaintiff incurred substantial expenses for emergency medical care, ambulance transportation and other medical and hospital expenses for his care and treatment on account of said injuries.
19. That by reason of the foregoing negligence and conduct on the part of the Defendant, BLACK DIAMOND EQUIPMENT RENTALS, LLC which was so careless and in total disregard of Plaintiff's rights and well being, the Plaintiff is entitled to damages sought as compensation for the injuries alleged in the above-stated cause of action which exceed the jurisdictional limits of all lower courts which would otherwise have jurisdiction of the within matter.

WHEREFORE the Plaintiff, JEREMY COLLARD, demands judgment against the Defendant, BLACK DIAMOND EQUIPMENT RENTALS, LLC and is entitled to damages sought as compensation for the injuries alleged which exceed the jurisdictional limits of all lower courts which would otherwise have jurisdiction of the within matter for the named Defendants' negligence for Plaintiff's personal injuries, conscious pain and suffering in the Action.

DATED: December 9, 2020

S/ _____
By: TIMOTHY HORIGAN, ESQ.
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